

APPROVED: Meeting No. 2-84

ATTEST:

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
MEETING NO. 39-83

December 19, 1983

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, December 19, 1983, at 8:00 p.m.

PRESENT

Mayor John R. Freeland

Councilman Steve Abrams

Councilman Douglas Duncan

Councilwoman Viola Hovsepian

Councilman John Tyner, II

The Mayor in the Chair.

In attendance: City Manager Larry Blick; City Clerk Helen Heneghan; City Attorney Paul Glasgow.

Re: City Manager's Report

Mr. Blick reported the following:

1. The City has submitted the plans and specifications to the State Highway Administration for First Street between Veirs Mill Road and the Rockville Pike. Bids should be advertised in March and an award made in May and completion estimated to be in December.

2. Leaf collection has been completed except for call backs to some missed locations. Last year's volume increased 8 percent over 1981 and this year's volume is already 14 percent higher than last year. As trees in recently built subdivisions mature, the City can expect an annual increase in volume.

3. Recent productions at the F. Scott Fitzgerald Theatre included a holiday concert by the Rockville Chorus which 325 people attended, a holiday concert by the Rockville Concert Band which 300 attended, and seven performances of the Nutcracker Ballet. 3,100 tickets were sold and five of the seven performances were sellouts.

Councilwoman Hovsepian commented that the Nutcracker Ballet was beautiful. She asked the City Manager if he sees the necessity of purchasing new leaf collection equipment this year. Mr. Blick said that will be reviewed during budget considerations. Mayor Freeland commented that if it is necessary, the City will purchase more equipment because this year the schedule did not match the pick up. He asked that a note be put in the Newsletter explaining the percentage increases from year to year.

Re: Appointments

The Mayor postponed appointments until the first meeting in January.

Re: Recognition of Award  
Winning High School  
Students

Mayor Freeland and the Council recognized the award winning students from the three Rockville High Schools as follows:

From Richard Montgomery High School the Field Hockey Team which won the County Championship and came in second in the State Playoffs in their Division with Coach Cecelia Natoli who was coach of the year, the National Merit Semi-finalists, the National Merit Commendations. From Rockville High School, the Soccer Team and the National Merit Scholars. From Wootton High School the Merit Scholars, the varsity Volleyball Teams State Champions with their award winning coach Mickey Lipman and the Golf Team State Champions. Mayor Freeland commended all these young people on their outstanding achievement. He presented a Rockville Flag to each of the schools and distributed flag pins to each of the students.

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council:

1. William Abert, 9 Maryland Avenue. Mr. Abert said he is present this evening with many of his neighbors. He asked that they stand and be recognized. Their purpose in coming tonight is to petition the Mayor and Council to reopen Argyle Street. The increase in traffic on Maryland Avenue since Argyle's closure is horrible and it has become difficult for them to get out of their driveways. Mayor Freeland said their request demands immediate work by the staff. He assured the neighborhood that the City will be back to them after January 1 with a firm answer on what can be done to solve the problem.

2. William Craft, 201 South Washington Street. Mr. Craft said the closure of Argyle has put additional traffic on South Washington Street which is a much narrower street. There is also a bad intersection there and the safety factor has been made worse by what has happened.

3. Jerry Jacobs, 1501 Allview Drive, Vice President of the Horizon Hills Civic Association. Mr. Jacobs addressed the Council concerning the intersection of West Kersey and Falls Road. A fatality has occurred there and a number of accidents. A left turn cannot be made due to the sight distance problem. The Traffic and Transportation Commission recommended against a light and the Planning Staff recommended for it. The Planning Commission deadlocked two to two and turned down the staff's recommendation to open Coldspring Road which would allow access to the traffic light at Falls Chapel. He asked for the Mayor and Council's assistance in

this matter. Mayor Freeland told Mr. Jacobs that he realizes it is a problem and has been awaiting the Planning Commission's recommendations to get back to the neighborhood. He explained the problem with getting Falls Road corrected lies with the State and they have no immediate plans to correct that problem. And, in the meantime, opposition has come forward to the opening of Coldspring. He said the staff will be bringing forward recommendations to the Mayor and Council and it will be discussed on a future agenda.

4. Elaine Goldberg, Chairman of the Advisory Commission on Public Education. Mrs. Goldberg commended the Mayor and Council for recognizing the high school students this evening. She said that is was a good step and the Commission will help the Mayor and Council keep up with what is going on in the schools. Mayor Freeland thanked Mrs. Goldberg and said tonight's commendation was a City activity with the Department of Recreation and Parks. He would like to continue recognizing the students but maybe not in this particular way. He would like the advice of the Education Commission on what the City should be doing.

Mrs. Goldberg reported to the Council that on November 16 an education forum was held in City Hall with nine PTAs present. It was an excellent opportunity to get people talking to each other and probably will be repeated in the spring. Mrs. Goldberg distributed materials to the Council that have been circulated by the School Board. It is a policy statement on long-range educational facilities planning and a statement on quality integrated education. She pointed out to the Council specific instances where the Commission's suggestions have been incorporated into the statement, in one instance almost verbatim. Mayor Freeland said on behalf of the Council, he would like to salute Mrs. Goldberg and the Commission for the super positive feedback that has occurred. The School Board has responded very well to the Commission's recommendations. Mrs. Goldberg submitted a letter for Mayor and Council approval. Mayor Freeland said he would redraft the letter for his own signature in support of the Commission's recommendations. Councilman Abrams noted that Richard Montgomery was the location of an informative session with the Rockville Chamber of Commerce last week. There was a very healthy exchange of ideas. Now, they are in the process of identifying resources.

5. Mansfield Kaseman, 708 Carter Road. Reverend Kaseman wished those present a Happy Hanukah and a Merry Christmas. He noted that the text of both holy days look to better government to establish prosperity to the citizens. He added that in the past year the quality of Rockville citizen's lives has been improved by both the Mayor and Council policy and its implementation by the staff. He presented the Interfaith Conferences newsletter and calendar to the Council noting that this is the

first time an interfaith calendar has been published in the City. Mayor Freeland and the Council thanked Reverend Kaseman.

There being no other citizen wishing to be heard, the Mayor closed the citizen's forum portion of the meeting.

Re: Condolences on the death  
of Dr. Eugene (Pat) Moran

Resolution No. 40-83

On motion of Councilwoman Hovsepien, duly seconded and unanimously passed, Resolution No. 40-83, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council, expressing condolences on the death of Dr. Eugene (Pat) Moran, was adopted by the Mayor and Council.

Councilwoman Hovsepien read the Resolution on behalf of the Mayor and Council.

Re: Request by Housing Policy  
Task Force for  
supplemental funds

This is a request by the Housing Policy Task Force for additional assistance from City staff so that the Task Force can complete its work and meet the work schedule contained in its interim report. It appears much of the assistance will have to be provided by the Department of Planning although some help will be needed from other departments and continued support provided by the Community Development and Housing Assistance Department.

Councilwoman Hovsepien said it would seem that in order to assist the Task Force, the staff would have to delay other work. Mayor Freeland agreed, given the October 15 target date to accomplish the work. Mr. Davis said there may be slippage in some other projects. If the Neighborhood Plans should go smooth there will be no problem, but slippage can occur if delays occur in the Neighborhood Plan. Councilman Tyner said he is unalterably opposed to any delays in the Neighborhood Plans. It would be better to consider additional resources. He said he would reserve his comments of opposition to the report until a later time when that is discussed by the Mayor and Council. Councilman Abrams said he agrees with Councilman Tyner, but to give the Department the resources would not necessarily guarantee manpower. He said he would prefer to see slippage in the Housing Policy rather than in the Neighborhood Plans. Councilwoman Hovsepien asked if it would be possible to get an intern to work for the Housing Policy Task Force. Mr. Davis said an intern would be used anyway but professional assistance is necessary to have a person capable of interpreting the data. Councilwoman Hovsepien asked if there is anyway the Task Force can get the data themselves. Mr. Davis said it might be possible, however, in MPDU zoning it is necessary for complete concentration in order to explore all areas -- density,

cluster, financing, etc. It must be looked at in a comprehensive sense. Councilwoman Hovsepian said she would like to see it completed as soon as possible since development applications are coming in all the time. A member of the Housing Policy Task Force, Sima Osdoby, present in the audience, addressed the Council and said there is an urgency since there is not much available land. There has been a tremendous effort on the part of the task force to get this report out but it is difficult to keep up with no budget or resources. There is a tremendous amount of information available that the task force needs but there is no money to make purchases such as a book put out by the Brookings Institute which is \$30 and which would be of tremendous help to the task force. (Mayor Freeland requested that the Clerk purchase the book for the task force.)

Mayor Freeland said no neighborhood plan should take priority over the City's Housing Policy. It becomes out of sequence. Neighborhood decisions should be based on an up to date housing policy. That should be first. He favors making adjustments to accomplish this. The Council suggested additional staff might be brought on board to assist Mr. Davis. Mr. Davis said the time involved in recruiting, hiring and training additional staff becomes counterproductive to getting the job done.

Councilman Duncan moved, duly seconded that the Housing Policy become a priority over the Neighborhood Plans. Councilman Tyner disagreed. He said he would prefer to add additional dollars to add half a person to the staff to work on the policy. It would seem that the Housing Policy is an economic matter. The neighborhood plans are extremely important and much more basic to what the City needs. The Council has not yet ascertained that the Housing Policy is what the citizens want. They may not agree with what the task force wants. He would like the Director of Planning to rearrange his work load. Councilman Abrams disagreed with the shifting of emphasis also. He said it will not accomplish what the Mayor and Council are hoping to accomplish. He fails to see the linkage. The neighborhood plan gets people involved. It is nothing that is cast in cement since there is a constant need for evaluation. He said he would be happy to make funds available but he does not feel that would give the City the help it needs. The Mayor suggested that the staff needs direction from the Mayor and Council. He is prepared to provide the additional resources to do it in a timely fashion. Councilman Abrams said there would not seem to be a maximum benefit to be derived from adding additional staff. Mr. Davis agreed and said the information is available, it just must be pulled together. His plan is to assign the new Planner III coming on board to the MPDU research.

Councilwoman Hovsepian requested a list from Mrs. Osdoby of the books, etc., that are needed. She referred to the calendar and the Housing Policy Task Force work plan showing two workshops scheduled for February with the community. Mayor Freeland said if a Housing Policy had been in place before the Mayor and Council attempted to adopt the Maryvale Plan it would have shown that the Maryvale Plan was only a plan for guidance, but was not in agreement with the need for housing. Councilman Tyner reminded the Council that housing is only one of the five critical elements in the neighborhood plan. Councilman Abrams cautioned that the Mayor and Council be careful to not overly structure since the plan is just a plan or a guideline to be measured against changes in the community. Councilwoman Hovsepian said it brings the Council full circle since the Master Plan is a statement of City policy. Councilman Abrams suggested that the Mayor and Council follow the staff's recommendation and go with the schedule submitted with no change in manpower. Mayor Freeland asked Mr. Davis if this meant that the MPDU research would slide. Mr. Davis said he and his staff are prepared to stay with the October date for both. Councilman Tyner then asked Mr. Davis to be sure that the neighborhood plans go as they are planned to go and keep the Mayor and Council up-dated on that. Mayor Freeland agreed and said the consensus of the Council agreed with the recommendation. Councilman Tyner asked that the Mayor and Council be kept informed if action is needed due to townhouse applications. The City Manager suggested that if townhouse applications come in, there is a possibility of tying the application to meeting low income needs. He suggested the Mayor and Council adopt a policy position that they are comfortable with that can be passed on to developers. Councilwoman Hovsepian said she would like to see a percentage go towards low cost housing. Mr. Abrams asked if the Mayor and Council have authority under their express powers legislation to place conditions on townhouse application approval. The City Attorney said he would like to have more time to look that. The City Manager suggested in the meantime, the staff tell developers that the Mayor and Council are looking to the benefit of the community for moderate priced housing in all application approval. Mayor Freeland agreed and suggested that the City Manager use his judgment if something comes along that the Mayor and Council might question. Councilman Duncan withdrew his previous motion, the seconder agreed.

Re: Award of Contract: Bid  
No. 20-84, Storm Water  
Management Maintenance -  
Red Gate Golf Course

An authorization was included in the FY 84 operating budget to perform silt removal from the Red Gate ponds. Following preparation of construction plans and specifications, it became apparent that the sum appropriated was inadequate. A

report was prepared recommending an increase which was subsequently authorized by the Mayor and Council by action taken on November 21, 1983.

It was the desire of the golf course operators that the work be accomplished during the time of year when golf play was at a minimum, namely during the winter months. However, this time period coincides with the time when the pond maintenance work is most difficult, sometimes impossible, and therefore very expensive.

The project was advertised on November 27, 1983. It was picked up by six contractors. Of this number, only one responded with a bid as follows:

F. E. Gregory & Sons, Inc., Gaithersburg, Maryland	\$126,640
Engineer's Estimate	69,564
Appropriation	70,000

It is recommended that the contract bid be rejected as excessive in price. It is further recommended that the project be rebid during August 1984, with the work to be accomplished during the months of September and October, 1984. A restriction on working during weekends and holidays will be included to minimize disruption to golf play. The project will be included in the FY 85 budget, rather than being carried forward from FY 84.

On motion of Councilman Tyner, duly seconded and unanimously passed, Bid No. 20-84 was rejected.

Re: Approval of Revision to  
Damage Claims Procedure

The Claims Committee was directed to draft revisions of the Supplemental Damage Claims Procedure. The purpose of the revision was to more efficiently and equitably meet the needs of citizens suffering losses due to damage claims that fall in the gap between coverage by City insurance and private insurance.

Several years ago, the Mayor and Council adopted a policy of paying certain claims resulting from damages caused by water main breaks. These claims were ineligible for liability insurance payments because there was no negligence, and consequently no liability on the part of the City. This was not understandable to most citizens who had damages caused by a City facility. The policy allowing limited payment of these claims has worked well.

Under the current Supplemental Damage Claims Procedure however, only property damage from water main breaks and disturbed water have been addressed since private insurance is generally unavailable for such losses. The Claims Procedure does not address damage claims due to mainline sewer stoppages since homeowner insurance endorsements are available to cover such losses.

The proposed revision of the Claims Procedure, enables the staff to make limited settlements for mail line sewer losses and thereby ease the predicament of the affected homeowners and reduce the time spent responding to these types of claims. The claims procedure has been rewritten to include sewer main stoppages.

On motion of Councilman Duncan, duly seconded and unanimously passed, the new Damage Claims Procedures was approved by the Council.

Re: Introduction of Ordinance:  
To amend Chapter 3 of the  
"Laws of Rockville",  
entitled "Personnel  
Regulations" to make the  
provisions consistent with  
employees' groups  
agreements

On motion of Councilman Abrams, there was introduced upon the table, an ordinance amending Chapter 3 of the "Laws of Rockville", entitled "Personnel Regulations" to make the provisions consistent with employees' groups agreements, said ordinance to lay over one week before final action is taken.

Re: Introduction of  
Resolution: To enlarge  
the corporate boundaries  
of the City to include  
1.0823 acres, J.B. & Co.,  
Southlawn Lane, X-94-83.

On motion of Councilman Abrams, there was introduced upon the table, a resolution enlarging the corporate boundaries of the City to include 1.0823 acres, J.B. & Co., Southlawn Lane, X-94-83.

Re: Adoption of Resolution:  
To provide for public  
hearing, X-94-83, J.B. &  
Co., Inc., Southlawn Lane,  
1.0823 acres

#### Resolution No. 41-83

On motion of Councilman Abrams, duly seconded and unanimously passed, Resolution No. 41-83, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council, providing for public hearing, X-94-83, J.B. & Co., Inc., Southlawn Lane, 1.0823 acres, was adopted by the Mayor and Council.

Re: Adoption of Ordinance: To  
amend the zoning map by  
adding 14.66 acres, X-85-81,  
I-3, Industrial, Westmont  
Ltd. Partners

#### Ordinance No. 41-83

On motion of Councilman Tyner, duly seconded and unanimously passed, Ordinance No. 41-83, the full text of which can be found in Ordinance Book No. 11 of the Mayor and Council amending the zoning map by adding 14.66 acres, X-85-81, I-3, Industrial, Westmont Ltd. Partners, was adopted by the Mayor and Council.



Re: Adoption of Ordinance: To  
grant Text Amendment  
Application, T-56-83, Sign  
Ordinance

Ordinance No. 42-83

Councilman Abrams moved to amend the ordinance to delete Section 3-6.11. The motion failed for lack of a second. Councilman Tyner asked Mr. Horne to explain the process that follows. Mr. Horne said that there will be a four to six month educational process to the community and a set up of the mechanism to enforce the ordinance. In the meantime, an inventory will be taking place so that within five to six months the City will be geared up. In the meantime, new applications must comply.

On motion of Councilman Duncan, duly seconded and unanimously passed, Ordinance No. 42-83, the full text of which can be found in Ordinance Book No. 11 of the Mayor and Council granting Text Amendment Application, T-56-83, Sign Ordinance, was adopted by the Mayor and Council.

Re: Adoption of Ordinance: To  
amend Section 1-108 of  
Chapter 14D of the "Laws  
of Rockville", entitled  
"Building Restriction  
Lines" to permit  
identification signs to be  
erected within the  
building restriction lines  
on Rockville Pike

Ordinance No. 43-83

On motion of Councilman Tyner, duly seconded and passed, Mayor Freeland and Councilmembers Duncan, Hovsepian and Tyner voting aye, Councilman Abrams abstaining, Ordinance No. 43-83, the full text of which can be found in Ordinance Book No. 11 of the Mayor and Council amending Section 1-108 of Chapter 14D of the "Laws of Rockville", entitled "Building Restriction Lines" to permit identification signs to be erected within the building restriction lines on Rockville Pike, was adopted by the Mayor and Council.

Re: Adoption of Resolution:  
To establish a new fee  
schedule for zoning  
applications, and other  
applications and permits

Resolution No. 42-83

Councilwoman Hovsepian asked about the minimum cost of signs referring to the old sign schedule and noting that portion was not included. The Council agreed it should be included.

On motion of Councilman Abrams, duly seconded and unanimously passed, the Resolution was amended to include a minimum of \$15 fee for any sign.

On motion of Councilman Duncan, duly seconded and unanimously passed, Resolution No. 42-83, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council, establishing a new fee schedule for zoning applications, and other applications and permits, was adopted, as amended, by the Mayor and Council.

Re: Adoption of Ordinance:  
To exercise the authority  
conferred upon the Mayor  
and Council of Rockville  
by Article 23A of the  
Annotated Code of Maryland by  
exempting the City  
prospectively and  
retrospectively from the  
applicability of all  
legislation enacted by  
Montgomery County by  
generally establishing  
provisions for the  
enforcement of City laws  
by Montgomery County

Councilman Tyner said the task force meetings have produced an agreement and because of that there is no need to adopt the ordinance at the present time. He would like to see it held in abeyance in case negotiations fail.

The City Manager agreed that this should not be adopted.

Councilman Tyner moved, duly seconded, and unanimously passed, that the ordinance be tabled.

Re: Correspondence

1. Senator Paul Sarbanes, re Red Line opening delays  
Mayor Freeland said that looks good for Metro completion in 1984.
2. S. R. Albersheim, re leaf collection.

Re: Information Items

1. Copy of letter to Traffic Engineer re Hungerford problems
2. Copy of letter to Delegate Gordon, re Rt. 28
3. Information on machines recorder  
Councilwoman Hovsepian said the staff should look to taping of Board and Commission meetings when no staff is available.
4. Information on Montgomery County accessory apartment legislation
5. Information on Montgomery County ICC recommendations
6. Response to citizens complaint
7. Project reports from CDHA
8. Request for waiver to install CATV pedestals
9. Letter to CDHA re CHRB proposal

Councilman Duncan suggested that the staff look into this and come back with a report.

## Re: New Business

1. Councilman Abrams wished season greetings to all present this evening.
2. Councilwoman Hovsepian complimented the City Manager on the effective staff action taken when a need is known to them. The heater in the Council's office is now working again.
3. Councilman Duncan said that contributed funds from the 7-Eleven stores have been used for skiing and kayak trips for handicapped people. He would like to see if the City could become involved in something like this. The City Manager said he would get back with recommendations from the staff.

## Re: Adjournment

There being no further business to come before the Council in general session, the meeting was adjourned at 10:15 p.m. to convene again in general session on Monday, January 9, 1984, at 8:00 p.m. or at the call of the Mayor.